

CHAPTER 6.0: OTHER ADMINISTRATIVE AND PROGRAM REQUIREMENTS

Federal regulations mandate that all CDBG-funded activities conducted by grantees and subrecipients must be *eligible* and must meet *one of three National Objectives*. These requirements form the regulatory backbone of the CDBG Entitlement program while leaving flexibility to localities to adapt the funding to their needs. There are, however, numerous other administrative and program requirements that govern your use of CDBG funds. Some of these fall into the area of prohibitions (for example, not using CDBG funds to conduct political activities). Others outline actions that *must be taken* (for example, taking positive steps to assure civil rights, equal opportunity, and fair housing protections).

You may find that, at any given time, some of these requirements do not directly affect your program or your activities. However, in the interest of *preventing future problems*, it is always a good idea to familiarize yourself with these sections of the CDBG regulations before you encounter situations where they apply. The consequence of ignorance is rarely bliss. For example, not observing the restrictions regarding lead-based paint, Davis-Bacon labor standards, or relocation requirements can result in very expensive outcomes for your program. By knowing the rules ahead of time, you will be prepared to avoid the problems and the costs of noncompliance and achieve your objectives with minimal difficulties.

This chapter provides an overview of 14 additional administrative and program requirements specified in Subparts J and K of 24 CFR Part 570 that apply to subrecipients as well as grantees. They are:

- Program Income (24 CFR 570.503 and 570.504).
- Programmatic and Budget Changes.
- Civil Rights and Fair Housing; Employment and Contracting Opportunities (24 CFR 570.601, 570.607 and 570.614).
- Labor Standards (24 CFR 570.603).
- Environmental Requirements (with respect to the use of funds, 24 CFR 570.604).
- Historic Preservation.
- National Flood Insurance Program (24 CFR 570.605).
- Floodplain Management (24 CFR Part 55).
- Relocation, Real Property Acquisition, and One-for-One Housing Replacement (24 CFR 570.606).
- Lead-based Paint (24 CFR 570.608).

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- Political Activity (24 CFR 570.207(a)(3)).
- Conflict of Interest (24 CFR 570.611).
- Program Monitoring (24 CFR 570.501(b), 24 CFR 85.40(a) and (e), and 24 CFR 84.51(a)).
- Suspension and Termination (24 CFR 570.503 (b) (6), 24 CFR 85.43 and 44, and 24 CFR 84.62).

The purpose of this chapter is to outline the specific requirements and areas of responsibility contained in these sections of the CDBG program regulations. For a more complete explanation of the standards and procedures relevant to any particular requirement, you should refer to the regulations themselves, to the Executive Orders or laws cited, and to your written Agreement with the grantee.

AS YOU READ THIS CHAPTER, THINK ABOUT ...

1. Which of your agency's activities may involve or be affected by the 14 requirements summarized in this chapter.
2. Whether any of these requirements might require a change in the way you currently conduct your CDBG-assisted activities, and if so, how.
3. Ways you should adapt your procedures (e.g., through staff training or changes in systems) to comply with the regulations and ensure that none of these requirements will provide a barrier to fulfilling the objectives of your Subrecipient Agreement.
4. What sort of technical assistance might be helpful to you in understanding and implementing the requirements of Subparts J and K of the CDBG regulations.
5. Whether your current Subrecipient Agreement adequately addresses the requirements summarized here.

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6.1 Program Income (24 CFR 570.503(a), (b)(3) and (7), and 570.504)

- The term “**program income**” means any gross income received by the subrecipient that was directly generated from the use of CDBG funds (24 CFR 570.500(a)). This includes, but is not limited to:
 - Proceeds from the sale or long-term lease of **real property purchased or improved** with CDBG funds.
 - Proceeds from the disposition of **equipment purchased** with CDBG funds.
 - Gross income from the **use or rental of property acquired** by the grantee or subrecipient with CDBG funds, less the costs incidental to the generation of such income.
 - Gross income from the **use or rental of property owned by the grantee or subrecipient that was constructed or improved** with CDBG funds, less any costs incidental to the generation of such income.
 - Payments of **principal and interest on loans made** using CDBG funds.
 - Proceeds from the **sale of loans made** with CDBG funds.
 - Proceeds from the **sale of obligations secured by loans made** with CDBG funds.
 - **Interest earned on program income**, pending the disposition of such program income.
 - **Funds collected through special assessments made against properties owned and occupied by households not of low- and moderate-income**, where such assessments are used to recover part or all of the CDBG portion of a public improvement.

Program income does **not** include (except for funds in lump-sum drawdown accounts), the interest earned on cash advances from the grantee or funds held in a revolving loan fund account. Such interest must be returned to the grantee for remittance to HUD.

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When income is generated by an activity that is only **partially** assisted with CDBG funds, the income must be prorated to reflect the percentage of CDBG funds used to determine the portion that is program income.

- The **written agreement** between the subrecipient and the grantee will specify whether any program income received by the subrecipient is to be **returned to the grantee or retained by the subrecipient for use in carrying out CDBG activities**.
- If the program income is to be retained by the subrecipient, the **written agreement will also specify what CDBG-eligible activities** the subrecipient may undertake with the program income.
- The receipt and expenditure of program income **must be recorded** by the subrecipient as part of its records of financial transactions.
- When a subrecipient retains program income, such income must be used for any authorized activity **before drawing down additional grant funds** from the grantee, except in the case of a revolving fund. In the case of **program income in a revolving fund**, the subrecipient must use the program income for the activity for which the revolving fund was established, **before** drawing down additional grant funds for that activity.
- **At the expiration of the Subrecipient Agreement**, any program income on hand or subsequently received by the subrecipient must **be returned to the grantee**.

6.2 Programmatic and Budget Changes

The Subrecipient Agreement and/or the grantee's written policies must specify when prior approval of the grantee is necessary for a programmatic or budget change relative to the subrecipient's CDBG-funded activities. For example, prior approval and/or a written amendment to the Agreement usually will be necessary when any of the following are anticipated:

- A revision to the scope or objectives of the CDBG activities, including purpose, location, or beneficiaries.
- The need to extend the period of availability of funds.
- Changes in key personnel when specified in the application package or grant award.

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- In non-construction projects, when contracting out a portion of the activity to a third party, unless specified in the application.
- A revision that would result in the need for additional funding.
- Cumulative transfers among direct cost categories or, if applicable, among separately budgeted activities or projects which exceed 10 percent (unless this requirement is waived by the grantee).
- Expenditures on items for which the applicable cost principles (OMB Circulars A-87 and A-122) require prior approval, see 570.200(h) for pre-award/pre-agreement costs.

6.3 Civil Rights and Fair Housing; Employment and Contracting Opportunities (24 CFR 570.601-602, 570.607)

The Subrecipient Agreement must require the subrecipient to administer its CDBG funds in compliance with the following Federal laws and Executive Orders, and implementing regulations:

- **Title VI of the Civil Rights Act of 1964 (Public Law 88-352 implemented in 24 CFR Part 1):** This law states that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- **Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Public Law 90-234):** The Fair Housing Act prohibits discrimination in housing practices on the basis of race, color, religion, sex, and national origin. The Fair Housing Act was amended in 1988 to provide protections from discrimination in any aspect of the sale or rental of housing for families with children and persons with disabilities. The Fair Housing Act also establishes requirements for the design and construction of new rental or for-sale multi-family housing to ensure a minimum level of accessibility for persons with disabilities.
- **Executive Order 11063, as amended by Executive Order 12259 (implemented in 24 CFR Part 107):** This order and its implementing regulations require HUD to take all actions necessary to prevent discrimination because of race, color, religion, sex, or national origin in the use, occupancy, sale, leasing, rental, or other disposition of residential property assisted with Federal loans, advances, grants, or contributions.

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Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et. seq.*): This law provides that any grant under Section 106 shall be made only if the grantee certifies to the satisfaction of the Secretary of HUD that the grantee will, among other things, affirmatively further fair housing.

- **Section 109 of Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et. seq.*, particularly 42 U.S.C. 6101 *et. seq.*, and 29 U.S.C. 794):** This law mandates that no person on the grounds of race, color, national origin, sex, or religion shall be excluded from participation, denied the benefits of, or otherwise be subject to discrimination under any activity funded in whole or part with CDBG funds.
- **Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 1701u):** This section implemented at 24 CFR Part 135 requires that, to the greatest extent feasible, a subrecipient must:
 - Ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income residents within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.
 - Award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located and to low- and very low-income participants in other HUD programs.

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- **Section 504 of the Rehabilitation Act of 1973, as amended (implemented at 24 CFR Part 135):** This section specifies that no otherwise qualified individual shall solely by reason of his or her handicap be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal assistance. Part 8 requires that recipients ensure that their programs are accessible to and usable by persons with disabilities. Part 8 also prohibits recipients from employment discrimination based upon disability.
- **The Americans with Disabilities Act (ADA) of 1990:** This law prohibits discrimination on the basis of disability in employment by state and local governments and in places of public accommodation and commercial facilities. The ADA also requires that facilities that are newly constructed or altered, by, on behalf of, or for use of a public entity, be designed and constructed in a manner that makes the facility readily accessible to and usable by persons with disabilities. The Act defines the range of conditions that qualify as disabilities and the reasonable accommodations that must be made to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities.
- **The Age Discrimination Act of 1975, as amended:** This law provides that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving Federal assistance.
- **Executive Order 11246 (as amended by Executive Orders 11375 and 12086) — Equal Opportunity Under HUD Contracts and HUD-assisted Construction Contracts:** This order requires that grantees and subrecipients and their contractors and subcontractors agree not to discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- **The Architectural Barriers Act of 1968:** The Architectural Barriers Act (ABA) of 1968 (ABA) (42 U.S.C. 4151-4157) requires that certain buildings financed with Federal funds must be designed, constructed, or altered in accordance with standards that ensure accessibility for persons with physical disabilities. The ABA covers any building or facility financed in whole or in part with Federal funds, except privately owned residential structures. Covered buildings and facilities designed, constructed, or altered with CDBG funds are subject to the ABA and must comply with the Uniform Federal Accessibility Standards.

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6.4 Labor Standards (24 CFR 570.603)

- **All laborers and mechanics** employed by contractors or subcontractors on **construction work** in excess of \$2,000 and financed in whole or in part with CDBG funds must be paid “**prevailing wages**” that have been determined in accordance with the **Davis-Bacon Act** as amended (40 U.S.C. 276a–276a-5). The Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333) also applies to such activities.
- **These labor standards shall apply only to the rehabilitation of residential property if the property contains not less than eight (8) units.**

Subrecipients are strongly encouraged to consult closely with their grantee during the planning of any construction or rehabilitation projects to assure that all the requisite labor standards will be properly observed. Grantees and subrecipients should pay particular attention to the technical complexities entailed in:

- Determining whether a project might be subject to Davis-Bacon requirements.
- Obtaining the appropriate prevailing wage rates and inserting the wage determination and the appropriate labor standards provisions in the contract.
- Requesting additional wage rate classifications that may not appear on a wage decision.
- Conducting an adequate pre-construction conference.
- Monitoring the work-site and contractor/subcontractor payrolls to document compliance with these requirements, including on-site employee wage interviews.

6.5 Environment Requirements (24 CFR 570.604)

In their use of CDBG funds, grantees are required to assume responsibility for **environmental review, decision making, and other action** that would otherwise apply to HUD under the National Environmental Policy Act of 1969 and other related provisions of law. The CDBG regulations explicitly **prohibit subrecipients from assuming the grantee’s environmental responsibilities** (see 24 CFR 570.503(b)(5)(i)).

However, under the applicable regulations for any project receiving CDBG assistance, **no party involved with the project, including subrecipients, may commit funds to the project, including incurring project costs, until the grantee completes the appropriate**

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environmental review and public notification process, and HUD approves a certification of compliance with environmental laws and request for release of funds from environmental conditions. Activities not subject to this restriction are those the regulations define as exempt from environmental review. However, before any party involved with the project can incur costs, even for activities that are exempt, **the grantee must first make a formal determination that the activity(ies) is exempt.** (The list of activities that are exempt from environmental review are found in 24 CFR part 58.34 and 58.35(b).)

6.6 Historic Preservation

Subrecipients must be careful not to violate provisions of the Historic Preservation Act and related laws and Executive Orders. Before commitments are made to make any physical improvements or alterations or to demolish any building, a subrecipient should receive assurances from the grantee that the grantee is in compliance with the Act.

Part of the grantee responsibility requires it to consult with the State Historic Preservation Officer as to whether the property: (1) is or could be declared a historic property; (2) is located in a historic district or an area which could be declared a historic district; and (3) involves proposed changes that could adversely affect historic properties or neighborhoods or properties or neighborhoods which could be declared historic.

If historic properties could be adversely affected, an agreement must be reached on appropriate mitigating measures with all parties identified in 36 CFR Part 800.

6.7 National Flood Insurance Program (24 CFR 570.605)

If a community has had notice for more than a year that an area has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, CDBG funds cannot be spent for acquisition or construction purposes in the area unless the community is participating in the National Flood Insurance Program and such insurance has been purchased for the properties in question. *Note that there is a statutory prohibition against providing Federal assistance to a person who had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance and the person failed to obtain and maintain such insurance. (24 CFR 58.6(b)).*

6.8 Floodplain Management

Subrecipients should select sites that are located outside of special flood hazard areas for projects proposing new construction or substantial improvement of existing buildings. Executive Order

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11988, Floodplain Management, directs agencies “to avoid direct or indirect support of floodplain development wherever there is a practicable alternative” (24 CFR Part 55).

Note that the guidance relating to environmental requirements is available on the HUD Web site at: <http://www.hud.gov/offices/cpd/energyenviron/environment/index.cfm>.

6.9 Relocation, Real Property Acquisition, and One-for-One Housing Replacement (24 CFR 570.606 (b) and (c))

A subrecipient must comply with (1) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 24 CFR 570.606(b), and 49 CFR Part 24; and (2) the requirements of 24 CFR 570.606(c) and 24 CFR Part 42 governing the Residential Antidisplacement and Relocation Assistance Plan (Plan) under Section 104(d) of the HCD Act.

Under the URA and the Plan, the subrecipient must provide relocation assistance to persons (families, individuals, businesses, non-profit organizations, and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition, or conversion for a CDBG-assisted project. All property occupants must be issued certain notices on a timely basis. (Failure to issue timely notices may result in unnecessary expenses.)

The Plan also requires the one-for-one replacement of any occupied or vacant occupiable low/moderate-income housing that is demolished or converted to another use in connection with a CDBG-assisted project. Finally, the Plan requires the identification of the steps that will be taken to minimize displacement.

Real property acquisition requirements are described in 49 CFR 24, Subpart B.

6.10 Lead-Based Paint (24 CFR 570.608 and Part 35)

CDBG-funded activities, such as the acquisition, construction, or rehabilitation of residential structures, may not use lead-based paint.

Certain requirements apply to the use of CDBG funds for the rehabilitation of a residential property that was constructed before 1978. At a minimum, grantees are required to: (a) notify a purchaser or lessee of the presence of any known lead-based paint and/or lead-based paint hazards; (b) paint test surfaces to be disturbed or removed during rehabilitation for the presence of lead-based paint, or presume lead-based paint and notify the occupants of the results within 15 days of when the evaluation report is received or the presumption is made; (c) provide each occupied dwelling unit discussed in (a) and (b) in the preceding section with the EPA-approved lead hazard information pamphlet Protect Your Family From Lead in Your Home or EPA-

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approved equivalent; (d) reduce lead hazards as required by the applicable subparts of Part 35; and (e) perform clearance testing, including dust testing, before reoccupancy after all but minimal (“de minimis”) amounts of paint disturbances. (See in the following section for details.)

The CDBG regulation at 24 CFR 570.608 states that the following subparts of Part 35 apply to the use of CDBG funds in pre-1978 housing:

- A - (Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property),
- B - (General Lead-Based Paint Requirements and Definitions for All Programs),
- J - (Rehabilitation),
- K - (Acquisition, Leasing, Support Services, or Operation), and
- R - (Methods and Standards for Lead-Based Paint Hazard Evaluation and Hazard Reduction Activities).

Part 35, Subpart A, is called the Lead Disclosure Rule; and Part 35, Subparts B through R, are called the Lead Safe Housing Rule.

Certain properties are exempt from the requirements of the Lead Safe Housing Rule. They include:

- Housing built on or after January 1, 1978;
- Zero-bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, or military barracks;
- Housing exclusively for the elderly or people with disabilities, unless a child under age 6 resides or is expected to reside there;
- Units that have been found to be free of lead-based paint by a certified lead-based paint inspector;
- Units where all lead-based paint has been removed;
- Unoccupied housing that will remain vacant until it is demolished;
- Non-residential portions of mixed-use buildings, except that spaces serving both residential and non-residential uses are covered by the rule;
- Units that are to be rehabilitated without disturbing a painted surface; and
- Units that are subject to emergency repair action needed to safeguard against imminent danger to human life, health or safety, or to protect the property from further structural damage;

For properties that are covered by the Lead Safe Housing Rule, the lead-based paint requirements for rehabilitation depend on the amount of Federal rehabilitation assistance provided. The amount of Federal rehabilitation assistance is the average per unit amount of Federal funds for the hard costs of rehabilitation, excluding lead-based paint hazard evaluation and hazard reduction activities. In calculating this assistance amount, you must consider both the total amount of Federal assistance to be used (including CDBG and other funds) and the hard costs of rehabilitation (including Federal and non-Federal funds). Whenever these two amounts

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are not the same, the smaller of the two determines the type and level of lead-based paint requirement. For a structure with more than one dwelling unit, the thresholds are applied against the average amount of Federal assistance per unit or the average hard cost of rehabilitation per unit, whichever is lower.

The following is a general overview of the requirements based on dollar thresholds per year per assisted housing unit:

- **Up to and including \$5,000**—notice, provision of pamphlet, paint testing of surfaces to be disturbed or presumption of lead-based paint, safe work practices as part of rehabilitation (except for minimal amounts of paint disturbances), repair any paint that is disturbed, and clearance after the work and before reoccupancy.
- **\$5,001–\$25,000**—notice, provision of pamphlet, paint testing or presumption, risk assessment to identify lead-based paint hazards, interim control or standard treatment of lead-based paint hazards, and clearance.
- **Over \$25,000**—notice, provision of pamphlet, paint testing or presumption, risk assessment, abatement of lead-based paint hazards, ongoing lead-based paint maintenance, and clearance.
- **Minimal (“de minimis”) amounts**—Safe work practices and clearance are not required when maintenance or hazard reduction activities do not disturb painted surfaces that total more than: 20 square feet on exterior surfaces; 2 square feet in any one interior room or space, or 10 percent of the total surface area on an interior or exterior type of component type with a small surface area (e.g., window sills, baseboards, and trim).
- **Pamphlet**—The Protect Your Family From Lead in Your Home pamphlet can be downloaded in English and Spanish from www.hud.gov/offices/lead or www.epa.gov/lead, and single paper copies can be obtained from the National Lead Information Clearinghouse at 1-800-424-LEAD. Persons with hearing or speech impediments may access this telephone number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

The in the preceding section description is intended to provide basic information on lead-based paint requirements. Consult the applicable portions of 24 CFR Part 35 (see www.hud.gov/offices/lead) and/or contact the HUD field office for greater detail if you are carrying out an activity subject to these requirements.

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6.11 Political Activity (24 CFR 570.207(a)(3))

A subrecipient is prohibited from using CDBG funds to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as sponsoring candidate forums, distributing brochures, voter transportation, or voter registration. However, a facility originally assisted with CDBG funds may be used on an incidental basis to hold meetings, candidate forums, or voter registration, provided that all parties and organizations have access to the facility on an equal basis and are assessed equal rent or use charges, if any.

6.12 Conflict of Interest (24 CFR 570.611; 24 CFR 85.36; and 24 CFR 84.42)

There are two sets of conflict of interest provisions applicable to activities carried out with CDBG funding. The first set, applicable to the procurement of goods and services by subrecipients, is the procurement regulations located at 24 CFR 84.42 and 85.36. (See 24 CFR 570.611(a)(1).) The second set of provisions is located at 24 CFR 570.611(a)(2). These provisions cover situations not covered by parts 84 and 85.

With respect to procurement activities, the subrecipient must maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. At a minimum, these standards must:

- Require that no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict would be involved. Such a conflict would arise when any of the following parties has a financial or other interest in the firm selected for an award:
 - an employee, officer, or agent of the subrecipient;
 - any member of an employee's, officer's, or agent's immediate family;
 - an employee's, agent's, or officer's partner; or
 - an organization which employs or is about to employ any of the in the preceding section.
- Require that employees, agents, and officers of the subrecipient neither solicit nor accept gratuities, favors, or anything of value from contractors, or parties to subagreements. However, subrecipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.
- Provide for disciplinary actions to be applied for any violations of such standards by employees, agents, or officers of the subrecipient.

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With respect to all other CDBG-assisted activities, the general standard is that no employee, agent, or officer of the subrecipient, who exercises decision-making responsibility with respect to CDBG funds and activities, is allowed to obtain a financial interest in or benefit from CDBG activities, or have a financial interest in any contract, subcontract, or agreement regarding those activities or in the proceeds of the activities. Specific provisions include that:

- This requirement applies to any person who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, a designated public agency, or a subrecipient, and to their immediate family members, and business partner(s).
- The requirement applies for such persons during their tenure and for a period of 1 year after leaving the grantee or subrecipient organization.
- Upon written request, exceptions may be granted by HUD on a case-by-case basis, after consideration of the cumulative effect of various factors listed at 24 CFR 570.611(d), and only with: (a) full disclosure of the potential conflict, and (b) a legal opinion of the grantee's attorney that there would be no violation of state or local laws in granting the exception.

6.13 Program Monitoring (24 CFR 570.501(b), 24 CFR 85.40(a) and (e), and 24 CFR 84.51(a))

A grantee is responsible for ensuring that all CDBG funds under its oversight are used in accordance with all program requirements, and for determining the adequacy of its subrecipients' performance. Accordingly, **the grantee is empowered to make site visits and review program files as necessary to fulfill these responsibilities.**

6.14 Suspension and Termination (24 CFR 570.503(b)(6))

When problems arise in the performance of a subrecipient, the grantee is responsible for taking appropriate actions **for correcting these deficiencies,** including suspending or terminating **the CDBG activities being carried out by the subrecipient (24 CFR 570.501(b)).**

Consistent with 24 CFR 570.503(b)(6), the **written agreement** between the grantee and the subrecipient must specify that suspension or termination may occur if the subrecipient materially fails to comply with any term of the CDBG award, and that the agreement may also be terminated for convenience (also see 24 CFR 85.43–85.44 and 84.62).

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Exercise for Chapter 6.0 — Other Administrative and Program Requirements

Circle the Correct Answer

1. Available program income must be used by the subrecipient before requesting additional grant funds from the grantee.

TRUE

FALSE

2. Program income must be used by the subrecipient for the same CDBG-funded activity that generated it.

TRUE

FALSE

3. Amendments to the Subrecipient Agreement are only necessary if the amount of the CDBG funding or the period in which it will be available is to be changed.

TRUE

FALSE

4. Regardless of the National Objective being addressed by a CDBG-funded public construction activity, in carrying out that activity, a subrecipient must ensure that to the greatest extent feasible, jobs are made available to local low- and moderate-income persons.

TRUE

FALSE

5. Davis-Bacon “prevailing wage” standards apply to all CDBG-funded construction or rehabilitation projects.

TRUE

FALSE

6. Subrecipients are required to perform an environmental review before incurring any program expenses in connection with a CDBG-funded activity.

TRUE

FALSE

7. In areas identified by FEMA as having special flood hazards, the National Flood Insurance requirements apply only to CDBG-funded new construction projects.

TRUE

FALSE

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8. The “one-for-one replacement” rule for low/moderate-income dwelling units that are demolished as a result of a CDBG-funded project only applies if the unit was occupied at the time that the CDBG project was initiated.

TRUE

FALSE

9. In a structure to be rehabilitated that has historic significance and is found to contain lead paint, the lead-based paint abatement requirements take precedence over the historic preservation requirements.

TRUE

FALSE

10. If a contractor, who sits on the board of directors of a non-profit subrecipient, offers to donate his time to perform rehabilitation on the subrecipient’s homeless shelter, there is no conflict of interest if the contractor is only reimbursed for the cost of materials.

TRUE

FALSE

11. A grantee may only perform an on-site monitoring at a time convenient to the subrecipient, and during that monitoring the grantee does not have a right to inspect individual client files.

TRUE

FALSE

The answers are on next page.

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Exercise for Chapter 6.0 — Other Administrative and Program Requirements (continued)

Answers to questions from preceding pages

1. **TRUE.** According to 24 CFR 570.504(b)(2), program income on hand must be used before drawing down additional grant funds, **except** in the instance of program income in a revolving fund, in which case the subrecipient must use the program income for the activity for which the revolving fund was established before drawing down additional funds for that same activity.
2. **FALSE.** The Subrecipient Agreement must specify whether the subrecipient will be allowed to retain program income (24 CFR 570.504(c)). The Agreement should also specify the CDBG activities for which this program income may be used, which do not have to be the same activities that generated it. For example, the Agreement could specify that program income generated from repayment of economic development loans to for-profit businesses is to be used subsequently for housing rehabilitation loans. On the other hand, the grantee could authorize the subrecipient to keep the income in a revolving fund, in which case it would have to be used for making other economic development loans.
3. **FALSE.** In addition to changes to the total funding and period of performance, there are a variety of other circumstances under which a formal amendment to the Agreement should be executed. For example, a formal amendment should be made if additional activities are added to the scope of work, funds are substantially re-budgeted among activities, or the performance objectives for a particular activity are modified. Although sometimes incorrectly dismissed as a mere formality, written amendments serve to protect both the grantee and the subrecipient by making explicitly clear what the current expectations and legal responsibilities are for each party to the agreement.
4. **TRUE.** A requirement of Section 3 of the Housing and Community Development Act of 1974, as amended, states that it is the responsibility of grantees and subrecipients to make every reasonable effort to ensure that such employment opportunities are created for low- and moderate-income persons within the area.
5. **FALSE.** In general, Davis-Bacon “prevailing wage” standards apply only to construction contracts in excess of \$2,000 for construction work financed in whole or in part with CDBG assistance. For rehabilitation or new construction of residential properties, a CDBG-financed project is only subject to Davis-Bacon requirements if the property includes eight (8) or more units.
6. **FALSE.** Although a subrecipient is not allowed to incur program expenses for a CDBG project before the receipt of environmental clearance, it is the *grantee* that has the responsibility of completing the environmental review, *not* the subrecipient.

Playing by the Rules

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7. **FALSE.** The National Flood Insurance Program requirements apply to *any CDBG-funded acquisition or construction project (including rehabilitation)* in a community that has had notice from FEMA for more than a year that the project area has special flood hazards.
8. **FALSE.** The “one-for-one replacement” requirement applies if the low/moderate-income unit had been *occupiable* and not just if it was actually occupied.
9. **FALSE.** Both the lead-based paint abatement and the historic preservation requirements must be satisfied. If the subrecipient cannot comply with both sets of requirements with the available funding, then it cannot assist the unit.
10. **FALSE.** Even if the contractor only receives reimbursement for materials “at cost,” the contractor will be considered to have a “financial interest” and therefore a conflict would exist. However, the grantee could request that HUD provide an exception in accordance with § 570.611(d) in this type of instance, where the contractor’s interest does not include payment for his or her services.
11. **FALSE.** In its efforts to fulfill its oversight responsibilities, a grantee is given broad discretion in the establishment of schedules for on-site visits and for examining any program records that it deems necessary for monitoring compliance with CDBG requirements. However, it is good practice to consider the subrecipient’s situation when scheduling such a visit, so as not to create too much of an inconvenience.